

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Plaintiff,

DECISION AND ORDER

13-CR-6028L

v.

RAYMOND OUELLETTE,

Defendant.

This Court referred all pretrial matters in this criminal case to United States Magistrate Judge Marian W. Payson pursuant to 28 U.S.C. § 636(b). Counsel for the defendant filed a motion to determine the competency of defendant and the Magistrate Judge, finding reasonable cause to believe that the defendant may be suffering from a mental disease or defect, ordered a psychiatric examination of defendant, pursuant to 18 U.S.C. § 4241(b) (Dkt. #18). Defendant was committed to the Metropolitan Correctional Center, New York, New York, and a Report (Dkt. #21) was submitted to the Court. The authors of that report concluded that defendant was not currently competent to stand trial.

Thereafter, the Magistrate Judge held a competency hearing on October 10, 2013.

Defense counsel objected to the conclusion in the Report and requested an independent psychological examination be conducted by Dr. Rory Houghtalen. Dr. Houghtalen submitted his report and the Court conducted a further evidentiary hearing on June 23, 2014. Dr. Houghtalen

concluded that defendant is competent to stand trial and does not presently suffer from any mental disease or defect.

Subsequent to the competency hearing, the Magistrate Judge allowed post-hearing submissions. The Court has reviewed those submissions (Dkt. #40 and #46). Defense counsel urges the Court to accept Dr. Houghtalen's report and find that the defendant is competent to proceed to trial. The Government expressed some reservations (Dkt. #46) in light of the original report from doctors at the Metropolitan Correctional Center but, it did not urge the Court to find by a preponderance that defendant suffers from a mental disease or defect which renders him unable to assist counsel and, therefore, incompetent to stand trial.

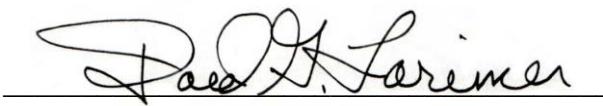
The Magistrate Judge issued her reasons for determining that the defendant is competent to stand trial on the record on October 6, 2014 and confirmed that in a written Report and Recommendation (Dkt. #47). Neither the defense nor the Government has objected to that Report and Recommendation.

The Court has available to it the audiotape of the proceedings before Magistrate Judge Payson on October 6, 2014, as well as tape recordings of the competency hearings before Magistrate Judge Payson. I also have reviewed the eighteen page transcript of the October 6, 2014 court proceedings, during which Judge Payson stated her reasons for finding defendant competent. (Dkt. #47). Those findings were thorough and detailed.

In light of the above, I accept and adopt the Report and Recommendation of Magistrate Judge Payson that defendant is competent to stand trial. No objections to the Report and Recommendation have been filed. I, therefore, find that defendant Raymond Ouellette is not suffering from any mental disease or defect which renders him unable to understand the nature and

consequences of the proceedings against him or to assist in his defense, and that he is, therefore, competent.

IT IS SO ORDERED.



DAVID G. LARIMER
United States District Judge

Dated: Rochester, New York
October 16, 2014.